

Remarks/Arguments

The foregoing amendments to the claims are of formal nature, and do not add new matter. Claims 119-126 and 129-136 are pending in this application and stand rejected on various grounds. Claims 119-123, 125, 129 and 132-136 have been canceled without prejudice or disclaimer to pursue their subject matter in subsequent continuations or divisional applications. Rejections to these pending claims are respectfully traversed.

Priority

Applicants acknowledge the Examiner's comments and have amended the specification to correct priorities.

Further, Applicants submit that they rely on the homology of PRO1186 to "the black mamba venom protein" for patentable utility of the instant application. This homology was first disclosed in US Provisional Application 60/096,146, filed August 11, 1998, priority to which has been claimed in this application. Therefore, Applicants believe that they are entitled to a priority date of at least **August 11, 1998** for the instantly pending claims.

Claim Rejections - 35 U.S.C. § 112, first paragraph -enablement

Claims 132-136 are rejected under 35 U.S.C. §112, first paragraph for lack of enablement.

In view of the cancellation of claims 132-136 in this amendment, this rejection is moot. Therefore, Applicants respectfully request that this rejection should be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Claims 119-123 are rejected under 35 U.S.C. §102(e) as being anticipated by Sheppard (U.S. Patent 6,485,938- sequence first disclosed in U.S. provisional 60/165,905 filed Nov. 16, 1999).

In view of the cancellation of claims 119-123 in this amendment without prejudice or disclaimer, this rejection is moot with respect to these claims. Accordingly, this rejection should be withdrawn.

Double Patenting Rejection

(1) Claims 119-124, 126, 130-136 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/692,299. The Examiner says that "Although the conflicting claims are not identical, they are not patentably distinct from each other because SEQ ID NO: 371 of the present application is identical to SEQ ID NO: 2 of the copending application."

In view of the cancellation of claims 119-123, 125, 129 and 132-136 in this amendment, this rejection directed to these claims are moot. Regarding the remaining claims, Applicants respectfully request that this rejection be held in abeyance until there is an indication of allowable subject matter in either of these cases.

(2) Claims 125, 129 are provisionally further rejected under 35 U.S.C. §101 as claiming the same invention as that of claim 8 of copending Application No. 10/692,299.

In view of the cancellation of claims 125 and 129 in this amendment, this rejection is moot. Thus, Applicants respectfully request that this statutory-type double patenting rejection be withdrawn.

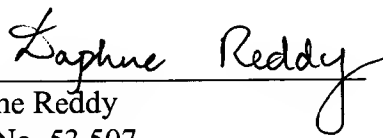
CONCLUSION

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-2730P1C35). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

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